

THE CITY OF SAN DIEGO, CALIFORNIA
MINUTES FOR REGULAR COUNCIL MEETING
OF
TUESDAY, SEPTEMBER 16, 2003
AT 9:00 A.M.
IN THE COUNCIL CHAMBERS - 12TH FLOOR

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CHRONOLOGY OF THE MEETING:

The meeting was called to order by Mayor Murphy at 10:12 a.m. Mayor Murphy recessed the meeting at 10:46 a.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 10:53 a.m. with all Council Members present. The meeting was recessed by Mayor Murphy at 12:00 p.m. to reconvene at 2:00 p.m.

The meeting was reconvened by Mayor Murphy at 2:08 p.m. with Council Member Peters not present. Mayor Murphy recessed the meeting at 3:29 p.m. for the purpose of a break. Mayor Murphy reconvened the meeting at 3:37 p.m. with all Council Members present. Mayor Murphy adjourned the meeting at 4:35 p.m. into Closed Session immediately following the regular meeting in the twelfth floor conference room to discuss anticipated, and existing litigation, and property negotiation matters.

ATTENDANCE DURING THE MEETING:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Inzunza-present

Clerk-Lane/Maland (ek/pr)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Lane called the roll:

- (M) Mayor Murphy-present
- (1) Council Member Peters-present
- (2) Council Member Zucchet-present
- (3) Council Member Atkins-present
- (4) Council Member Lewis-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Inzunza-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Dr. Robert Matthews reported on the good-will visitation by the San Diego Tema Sister City Society to Accra and Tema, Ghana and West Africa.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:12 a.m. - 10:18 a.m.)

PUBLIC COMMENT-2:

Don Stillwell stated that the Bible should be used as a basis for saying daily prayers before City Council meetings.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:19 a.m. - 10:21 a.m.)

PUBLIC COMMENT-3:

Noel Neudeck requested the inclusion of smoke, fire and burglary alarms in the Otay Mesa Public Library expansion construction plans. Mr. Neudeck also noted that October is the City of San Diego's Disabilities Awareness Day Month and urged participation in its observance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. - 10:24 a.m.)

PUBLIC COMMENT-4:

Jarvis Ross commented on redevelopment in the City of San Diego and the role of the Redevelopment Board, its intended purpose and its application.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:25 a.m. - 10:27 a.m.)

PUBLIC COMMENT-5:

Reverend Patricia Andrews-Callori commented on sick days for contracted City employees as it relates to the Living Wage Ordinance.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:28 a.m. - 10:30 a.m.)

PUBLIC COMMENT-6:

Ron Boshun stated his observations on the actions of the City Council.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:31 a.m. - 10:33 a.m.)

PUBLIC COMMENT-7: REFERRED TO THE CITY MANAGER

Pam Swanson alerted the City Council to the confusion which has resulted for personnel who process permits in the Permit Services Division by implementing the Project Tracking System. This system has resulted in more computer input, additional time required to process permits, low productivity and poor morale. She suggested that this system be reviewed and streamlined so that a more efficient process be put in place.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:34 a.m. - 10:37 a.m.)

PUBLIC COMMENT-8:

Arleen Freeman commented on the anti-resolution first introduced by Council Member Frye on January 28, 2003, which requested our sister city in China to cease persecution of those practicing their beliefs. Miss Freeman also reported on the lawsuits filed all over the world relevant to the genocide that is taking place in China in the last four years.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. - 10:40 a.m.)

PUBLIC COMMENT-9:

Martha Welch commented on the change in the billing cycle within the Water Department of the City, and also commented on the Park Department's policies.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:41 a.m.)

PUBLIC COMMENT-10:

Petrina Burnham, appearing on behalf of the NAACP, urged the City Council to oppose Proposition 54, which prohibits state and other public entities from collecting data which classifies by race, ethnicity, color or national origin. Mayor Murphy stated that Proposition 54 will be taken up by the Rules Committee tomorrow, September 17, 2003, for discussion and a vote. It will then be brought before the City Council at a later date.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:42 a.m. - 10:45 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Mayor Murphy mentioned that on September 13, 2003, he and Council Member Frye joined Congresswoman Susan Davis at the kick-off for Phase I of the San Diego River Restoration Project, at which Congresswoman Davis presented a \$450,000 check from the federal government to begin river-restoration efforts. Mayor Murphy noted this is part of the effort to create a San Diego River Park. He also commented on the dedication of the reconfigured La Jolla Parkway, where he and Council Member Peters were present. Council Member Peters commented that it was really community effort to complete the project.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:54 a.m. - 10:56 a.m.)

COUNCIL COMMENT-2

Council Member Lewis welcomed the newest resident of Paradise Hills, his sister and brother-in-law's child, Zion Isaiah.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:57 a.m.)

COUNCIL COMMENT-3:

Council Member Atkins announced that the San Diego Hall of Champions is hosting the opening of the San Diego Surfing History exhibit on September 17, 2003 at 6:00 p.m. Miss Atkins also expressed thanks to the San Diego Fire Department for responding so quickly when one of the displays at the Natural History Museum caught fire.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:58 a.m.)

COUNCIL COMMENT-4:

Council Member Frye thanked Council Member Atkins for helping to promote the opening of the new exhibit at the Hall of Champions. Miss Frye also announced that this Saturday, September 20, 2003, the Serra Mesa Community Fair will be held at the Serra Mesa Recreation Center, where there will be music and dancing. She also wished to promote the Buy Your Book event for the Mission Valley Library this weekend, which will be held at the Hazard Center at the Barnes and Noble Bookstore. Council Member Frye stated that the 13th annual Paddle for Clean Water was also held last week.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:02 a.m.)

COUNCIL COMMENT-5:

Council Member Zucchet wished to welcome members of the Point Loma community and greater San Diego to the opening of the new Point Loma Branch Library this Saturday, September 20, 2003, at 10:00 a.m., at which he and Mayor Murphy will be present to cut the ribbon. Mr. Zucchet noted that the library will house some 80,000 books, and is a state-of-the-art facility.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:03 a.m. - 11:04 a.m.)

COUNCIL COMMENT-6:

Council Member Peters announced that this coming weekend is Coastal Clean Up Day throughout the State of California, where all are invited to come and clean up the beaches in San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:05 a.m.)

COUNCIL COMMENT-7:

Council Member Madaffer wished to recognize his policy aide, Jaymie Bradford, who was inducted as the latest Surf Diva after taking surfing lessons and receiving a certificate. Mr. Madaffer also congratulated his Chief of Staff, Aimee Faucett who was honored in the San Diego Metropolitan magazine as one of the 40-under-40 to watch for in the future. In addition, Council Member Madaffer mentioned that yesterday, the City Council declared Friday, September 19th, as Prisoners of War/Missing In Action Day in the City of San Diego.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:06 a.m. - 11:08 a.m.)

CITY MANAGER COMMENT:

None.

CITY ATTORNEY COMMENT:

City Attorney Gwinn stated that the City of San Diego won a case involving a contract dispute on the South Bay Ocean Outfall, which resulted in a \$4 million verdict, where approximately \$1 million of which was a verdict against the City. On appeal, the City received a unanimous verdict in favor of the City from the Fourth District Court of Appeals, reversing that verdict and clearing the City of any liability. Mr. Gwinn also wished to congratulate Deputy City Attorney Mark Stiffler for receiving a defense verdict in an officer-involved shooting case, clearing the officer and the City of liability. Finally, City Attorney Gwinn acknowledged Deputy City Attorney Linda Peter, who has been working on the Spectator Ordinance, on which the City Council has been working to ban illegal street-racing. The judge in the case found that the ordinance was a legal use of the Public Nuisance Law in order to prevent illegal street-racing.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 11:09 a.m. - 11:11 a.m.)

ITEM-330: Amendments to Medical Cannabis Voluntary Verification Card Program.

CITY ATTORNEY'S RECOMMENDATION:

Introduce the following ordinance:

(O-2004-5 Cor. Copy)

INTRODUCED AS AMENDED, TO BE
ADOPTED MONDAY, SEPTEMBER 29, 2003

Introduction of an Ordinance amending the San Diego Municipal Code by amending Chapter 4, Article 2, Division 13 by amending Section 42.1301, 42.1302, 42.1303, 42.1304, 42.1305, and 42.1306; by renumbering and amending existing Sections 42.1307 and 42.1308, respectively to 42.1309 and 42.1310; by adding new Sections 42.1307 and 42.1308; by renumbering existing Section 42.1311 to Section 42.1314; by renumbering and amending existing Sections 42.1309 and 42.1310, respectively to 42.1311 and 42.1312; and by adding new Section 42.1313, all relating to the San Diego Medical Cannabis Voluntary Verification Card Program.

SUPPORTING INFORMATION:

State law expressly permits the possession and use of cannabis "for medical purposes, where that medical need is deemed appropriate and has been recommended by a physician." However, state law does not provide specific guidance regarding the amount of cannabis that is medically necessary or legal to possess, and does not provide law enforcement officials with a mechanism for verifying that an individual has a medical need for cannabis. Under these circumstances, both patients and doctors have been reluctant to exercise their rights under the state law.

The Medical Cannabis Voluntary Verification Card Program ordinance was adopted by the City Council on February 25, 2002 by O-19036 to address these concerns. The ordinance sets forth a process to certify appropriate medical needs, issue identification cards to qualifying patients and caregivers, and to allow law enforcement to verify the validity of an individual identification card 24 hours a day. Under the original ordinance, the bearer of an identification card was allowed to possess up to one ounce of marijuana without being subject to arrest for possession of marijuana by SDPD within the jurisdictional limits of the City.

On February 4, 2003, the City Council approved a set of guidelines proposed by the City's Medical Cannabis Task Force entitled City of San Diego Law Enforcement Guidelines Regarding Possession of Medicinal Cannabis [Guidelines]. The purpose of the Guidelines is to set forth the specific conditions which must be met by participants in the Program in order to qualify for "safe harbor" treatment by SDPD. The Council directed that the City Attorney draft an ordinance consistent with the Guidelines.

The proposed amendments to the Medical Cannabis Voluntary Verification Card Program are for the purpose of conforming the existing ordinance to the Guidelines approved by the City Council on February 4, 2003. The amendments add a number of provisions to the existing ordinance, including: 1) a requirement that a patient's recommendation be in writing from a physician practicing in San Diego County; 2) a more specific application process for patients and

caregivers, including the requirement that applicants sign a waiver protecting the City and program contractor from liability; 3) a requirement that applicants provide proof of a law enforcement background check; 4) a reduction in the number of patients allowed per caregiver from twelve to four; 5) a requirement that caregivers receive training and instruction in implementation of the ordinance; 6) changes to the permissible amount of marijuana from one ounce to the following amounts: a) up to one pound of processed marijuana for a patient, b) up to two pounds of processed marijuana for a caregiver, c) up to 24 unharvested plants for a patient, and d) up to 48 unharvested plants for a caregiver. The amendments also include a prohibition on outdoor cultivation of marijuana, and a prohibition on smoking cannabis in any public place or any place open to the public or exposed to public view.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 11:13 a.m. - 12:00 p.m.;
2:09 p.m. - 4:34 p.m.)

MOTION BY ATKINS TO INTRODUCE THE ORDINANCE AS AMENDED BY
INTERLINEATION AS FOLLOWS:

1. **SECTION 42.1303, ELIGIBILITY FOR VERIFICATION CARD PROGRAM.**

TO READ AS FOLLOWS: "CALIFORNIA RESIDENTS, 18 OR OLDER, WHO MEET THE CRITERIA OF THE VERIFICATION PROCESS SET FORTH UNDER THIS DIVISION ARE ELIGIBLE TO PARTICIPATE IN THE VERIFICATION CARD PROGRAM."

2. **SECTION 42.1306, APPLICATION PROCESS.**

DELETE ALL OF SECTION (b) AND RE-LETTER SECTION (c) TO (b).

3. **SECTION 42.1308 (e), PERMISSIBLE AMOUNTS OF MARIJUANA.**

TO READ AS FOLLOWS: "NO OUTDOOR MARIJUANA CULTIVATION SHALL BE PERMITTED. GROWING MARIJUANA SHALL ONLY BE PERMITTED IN A FULLY ENCLOSED GREENHOUSE OR STRUCTURE THAT MUST BE LOCKED AND CONTAINED. THE AMOUNT OF MARIJUANA GROWN IN THE ENCLOSED GREENHOUSES OR STRUCTURES THAT ARE LOCKED AND CONTAINED SHALL NOT

EXCEED THE PERMISSIBLE AMOUNTS FOR INDOOR PLANTS
ACCORDING TO SECTIONS 42.1311 (c), AND 42.1311 (d).”

4. **SECTION 42.1313, SMOKING.**

THE FIRST PARAGRAPH TO READ AS FOLLOWS: “SMOKING
CANNABIS IN ANY PUBLIC PLACE OR IN ANY PLACE OPEN TO THE
PUBLIC IS PROHIBITED. ANY PERSON WHO VIOLATES THIS SECTION
IS GUILTY OF AN INFRACTION.”

TO ACCEPT AS PART OF THE MOTION, AND AS REQUESTED BY COUNCIL
MEMBER PETERS, THAT A REPORT REGARDING HOW THE PROGRAM IS
DOING COME BACK TO PS & NS COMMITTEE WITHIN SIX MONTHS OF THE
PASSAGE OF THE ORDINANCE. Second by Zucchet. Passed by the following vote:
Peters-yea, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-nay, Frye-yea,
Madaffer-nay, Inzunza-yea, Mayor Murphy-nay.

ITEM-331: Otay Mesa East.

Matter of approving, conditionally approving, modifying or denying rezoning a
vacant 45.5-acre site from AR-1-1 (Agricultural) to Otay Mesa Development
District Commercial Subdistrict (OMDD-C) and to subdivide into 13 lots (9
commercial lots; 3 open space lots; and 1 private underground sewer pump station
lot). An amendment to prohibit industrial uses in the OMDD-C Zone is also
proposed. The site is located in the 6600 block of Otay Mesa Road in the Otay
Mesa Community Planning Area.

(Otay Mesa Community Plan Area. District-8.)

CITY MANAGER'S RECOMMENDATION:

Adopt the resolution in subitem A; introduce the ordinances in subitems B and E; adopt
the resolution in subitem C to grant the map; and adopt the resolution in subitem D to
grant the permit:

Subitem-A: (R-2004-263) ADOPTED AS RESOLUTION R-298378

Adoption of a Resolution certifying that Mitigated Negative Declaration, LDR No.
99-0555, on file in the office of the City Clerk, has been completed in

compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of the land use actions for the Otay Mesa East-PTS No. 3159 project;

That the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved;

That pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation, Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

That the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (O-2004-23) INTRODUCED, TO BE ADOPTED ON
MONDAY, SEPTEMBER 29, 2003

Introduction of an Ordinance of the Council of the City of San Diego changing property located in the 6600 Block of Otay Mesa Road in the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 Zone (previously referred to as the A-1-10 Zone) to the OMDD-C Zone, as defined by San Diego Municipal Code section 103.1103(a); and repealing Ordinance No. 10862 (new series), adopted July 29, 1972, of the Ordinances of the City of San Diego insofar as the same conflict herewith.

Subitem-C: (R-2004-) GRANTED MAP, ADOPTED AS
RESOLUTION R-298379

Adoption of a Resolution granting or denying Vesting Tentative Map No. 008182, with appropriate findings to support Council action.

Subitem-D: (R-2004-) GRANTED PERMIT, ADOPTED AS
RESOLUTION R-298380

Adoption of a Resolution granting or denying Resource Protection Ordinance
Permit No. 008163, with appropriate findings to support Council action.

Subitem-E: (O-2004-24) INTRODUCED, TO BE ADOPTED ON
MONDAY, SEPTEMBER 29, 2003

Introduction of an Ordinance of the Council of the City of San Diego amending
Chapter 10, Article 3, Division 11 of the San Diego Municipal Code by amending
section 103.1103 relating to permitted uses in the Otay Mesa Development
District.

OTHER RECOMMENDATIONS:

Planning Commission on July 17, 2003, voted 6:0 to approve; no opposition.

Ayes: Lettieri, Schultz, Brown, Garcia, Chase and Ontai
Not present: Steele

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

SUPPORTING INFORMATION:

The requested actions include a Rezone from A-1-10 to the Otay Mesa Development District-
Commercial Subdistrict (OMDD-C) Zone, a Vesting Tentative Map (VTM) and a Otay Mesa
Development District (OMDD)/Resource Protection Ordinance (RPO) Permit to allow
commercial development of a vacant 45.5-acre site located in the 6600 block of Otay Mesa Road
in the Otay Mesa Community Planning area and an amendment to Section 103.1103(b) of the
Otay Mesa Development District Ordinance 017355, restrict industrial uses.

The Planning Commission considered this project on July 17, 2003 and voted 6:0:0 to recommend
that the City Council adopt staff recommendations to approve the project as presented in Planning
Report No. P-03-171. There was no opposition to the project.

On June 19, 2002, the Otay Mesa Planning Group voted 16-0-0 in support of the project.

The City Manager recommends that the City Council:

1. CERTIFY Mitigated Negative Declaration (MND) No. 99-0555 and ADOPT the associated Mitigation, Monitoring and Reporting Program (MMRP);
2. APPROVE the proposed Rezone No. 008161 from AR-1-1 (A-1-10, Old Code) to the Otay Mesa Development District-Commercial Subdistrict (OMDD-C) Zone;
3. APPROVE Vesting Tentative Map (VTM) No. 008182;
4. APPROVE Otay Mesa Development District/Resource Protection Ordinance Permit (Old Code) No. 008163; and
5. APPROVE an amendment to Section 103.1103 (b) of the Otay Mesa Development District Ordinance, No. 017355, restricting industrial uses.

CODE ENFORCEMENT IMPACT - None with this action.

HOUSING AFFORDABILITY IMPACT -

The property is zoned A-1-10 (pre-December 31, 1999, Old Code) and is equivalent to the present AR-1-1 of the Land Development Code which allows residential development at very low densities and the minimum lot size in this zone is ten acres. The subject property contains 45.5 acres (32.2 net) and could yield a maximum of three residences. The proposed rezone to OMDD-C would preclude residential development and therefore, there is a potential loss of three dwelling units with the proposed rezone.

WATER QUALITY IMPACT-

The project is required to comply with the State Water Resources Control Board Order No. 92.08-DWQ (NPDES General Permit No. CAS0000002). As stated in the project's Water Quality Technical Report, the development incorporates site design, source control and treatment Best Management Practices (BMPs) to mitigate water quality impacts.

TRAFFIC IMPACT:

This project is estimated to generate approximately 12,631 Average Daily Trips (Phase 1: 8,143 ADT, Phase II: 4,488 ADT), 1,303 of which are estimated to occur on the nearby Interstate 905 (with Phase 1 of the project), which has an estimated near term plus project volume of 50,493 ADTs between Caliente Boulevard and I-805 with level of service "A". (Attachment 19) The extension of SR-905 is planned by Caltrans to be completed by 2007. According to the applicant, occupancy of the units is anticipated in 2007.

FISCAL IMPACT:

None with action. All Impacts associated with the processing of this project are paid by the applicant.

Ewell/Christiansen/AIA/PXG/AICP

LEGAL DESCRIPTION:

The project includes a proposal to rezone the 45.5-acre vacant project site from A1-10 (Agricultural) to Otay Mesa Development District-Commercial Subdistrict (OMDD-C). The project also proposes the subdivision of 13 legal lots consisting of 9 commercial lots (Lots 1-8 and 12) with 1,302 parking space on 32.1 developable acres; three open space lots (Lots 9-10 and 13), and construction of a private underground sewer pump station on 0.4 acres of land at the northeast corner of the site (Lot 11). Included in the project proposal is the preservation of the 1.3-acre wildlife corridor and MHPA in the northeast corner of the site adjacent to the existing 6-foot wildlife underground tunnel at Otay Mesa Road and Corporate Center Drive. Four acres will be designated as open space to protect the MHPA on the southern boundary of the site. An additional six acres on the eastern boundary of the project site will be designated as open space and includes a fenced preserve for 22 existing vernal pools and one road pool located in the southeast corner of the property. The project site is located at Otay Mesa Road and Corporate Center Drive within the Otay Mesa Community Planning Area.

FILE LOCATION: LUP-Otay Mesa East, 9/16/03 (65)

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:12 a.m.)

MOTION BY INZUNZA TO ADOPT THE RESOLUTION IN SUBITEM A, INTRODUCE THE ORDINANCES IN SUBITEMS B AND E, ADOPT THE RESOLUTION IN SUBITEM C TO GRANT THE MAP, AND ADOPT THE RESOLUTION IN SUBITEM D TO GRANT THE PERMIT. Second by Madaffer. Passed by the following vote: Peters-not present, Zucchet-yea, Atkins-yea, Lewis-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Inzunza-yea, Mayor Murphy-yea.

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NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Mayor Murphy at 4:35 p.m.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 4:35 p.m.)